

House File 229 - Introduced

HOUSE FILE 229

BY SHIPLEY

A BILL FOR

1 An Act relating to the standard of judicial review and
2 providing a claim or defense when a state action burdens a
3 person's exercise of religion, and including effective date
4 provisions.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **675.1 Short title.**

2 This chapter shall be known and may be cited as the
3 *"Religious Freedom Restoration Act"*.

4 Sec. 2. NEW SECTION. **675.2 Legislative purpose and intent.**

5 The purpose and intent of this chapter is all of the
6 following:

7 1. To restore the compelling interest test as set forth
8 in *Sherbert v. Verner*, 374 U.S. 398 (1963) and *Wisconsin v.*
9 *Yoder*, 406 U.S. 205 (1972), and to guarantee its application in
10 all cases where the free exercise of religion is substantially
11 burdened by government action.

12 2. That this chapter be interpreted consistent with the
13 Religious Freedom Restoration Act of 1993, 42 U.S.C. §2000bb et
14 seq., federal case law, and federal jurisprudence.

15 3. To provide a claim or defense to a person whose exercise
16 of religion is substantially burdened by government action.

17 Sec. 3. NEW SECTION. **675.3 Definitions.**

18 As used in this chapter, unless the context otherwise
19 requires:

20 1. *"Demonstrates"* means to meet the burdens of going forward
21 with the evidence and of persuasion.

22 2. *"Exercise of religion"* means the practice or observance
23 of religion, including any action that is motivated by a
24 sincerely held religious belief, whether or not the exercise is
25 compelled by, or central to, a system of religious belief.

26 3. *"Government"* includes a branch, department, agency,
27 instrumentality, political subdivision, official, or other
28 person acting under color of state law.

29 4. *"State law"* includes without limitation a law, ordinance,
30 or resolution of the state or a political subdivision of the
31 state.

32 Sec. 4. NEW SECTION. **675.4 Free exercise of religion**
33 **protected.**

34 1. Government shall not substantially burden a person's
35 exercise of religion, even if the burden results from a rule

1 of general applicability, unless the government demonstrates
2 that applying the burden to that person's exercise of religion
3 is in furtherance of a compelling governmental interest and
4 is the least restrictive means of furthering that compelling
5 governmental interest.

6 2. A person whose exercise of religion has been burdened
7 in violation of this chapter may assert such violation as a
8 claim or defense in a judicial or administrative proceeding
9 and obtain appropriate relief. Standing to assert a claim or
10 defense under this chapter shall be governed by the general
11 rules of standing under state and federal law.

12 Sec. 5. NEW SECTION. 675.5 **Applicability.**

13 This chapter applies to all state and local laws and the
14 implementation of state and local laws, whether statutory
15 or otherwise, and whether adopted before, on, or after the
16 effective date of this Act.

17 Sec. 6. **EFFECTIVE DATE.** This Act, being deemed of immediate
18 importance, takes effect upon enactment.

19 **EXPLANATION**

20 The inclusion of this explanation does not constitute agreement with
21 the explanation's substance by the members of the general assembly.

22 This bill relates to the standard of judicial review when a
23 state action burdens a person's exercise of religion.

24 Under current law, a court is not required to apply
25 heightened scrutiny when reviewing a law that burdens a
26 person's exercise of religion when such law is generally
27 applicable. The bill provides that a court shall apply the
28 compelling interest test set forth in *Sherbert v. Verner*, 374
29 U.S. 398 (1963), and *Wisconsin v. Yoder*, 406 U.S. 205 (1972),
30 in such cases, so that government action cannot substantially
31 burden a person's exercise of religion unless the government
32 demonstrates that applying the law of general applicability is
33 in furtherance of a compelling governmental interest and is
34 the least restrictive means of furthering that interest. The
35 bill provides that a person whose exercise of religion has been

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1 burdened by government action may assert such violation as a
2 claim or defense in a judicial or administrative proceeding.
3 The bill takes effect upon enactment.